

The Honorable James L. Robart

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

NO. CR17-229JLR

Plaintiff,

## **PROTECTIVE ORDER**

V.

FRANCISCO RUELAS-PAYAN, et al.,

### Defendants.

This matter, having come to the Court's attention on the parties' joint motion for entry of a discovery protective order, and the Court, having considered the motion, and being fully advised in this matter, hereby enters the following PROTECTIVE ORDER:

**1. Protected Material.** For purposes of this Order, “Protected Materials” shall include (1) Grand Jury testimony; (2) financial information and other personal identifying information (“PII”)<sup>1</sup> obtained during the investigation, either via Grand Jury subpoena and/or during the execution of search warrants; (3) other personal information

<sup>1</sup> "PII" includes, but is not necessarily limited to, the information identified in Fed. R. Crim. P. 49.1(a) and includes full names, dates of birth, Social Security numbers (or other identification information), financial account information (including account numbers), tax information, driver's license numbers, addresses, telephone numbers, locations of residences or employment, medical records, school records, juvenile criminal records, and other confidential information. The government has endeavored to redact PII as appropriate, but the parties acknowledge and agree that this will not always be possible, and that in some instances un-redacted PII may be necessary to the defense.

1 about defendants and third parties, including but not limited to photographs (including  
2 sexually suggestive photographs of family members, defendants and/or witnesses) and  
3 other sensitive information obtained from the search of social media, cellular telephones  
4 and other digital devices seized during the investigation (collectively, the "Protected  
5 Material"). All cellular telephone downloads, financial records, and summaries of  
6 financial records provided during discovery will be considered Protected Material  
7 without further designation by the Government. Other information believed by the  
8 Government to be Protected Material will be so designated by the Government.

9       **2. Production of Protected Material to the Defense.** The United States will  
10 make available copies of the Protected Materials, including those filed under seal, to  
11 defense counsel to comply with the government's discovery obligations. Possession of  
12 copies of the Protected Materials is limited to the attorneys of record, and investigators,  
13 paralegals, law clerks, experts and assistants for the attorneys of record (hereinafter  
14 collectively referred to as "members of the defense teams"). Further, the attorneys of  
15 record are required, prior to disseminating any copies of the Protected or Sensitive  
16 Materials to members of the defense teams, to provide a copy of this Protective Order to  
17 members of the defense teams, and obtain written consent by members of the defense  
18 teams of their acknowledgment to be bound by the terms and conditions of this Protective  
19 Order. The written consent need not be disclosed or produced to the United States unless  
20 requested by the Assistant United States Attorney and ordered by the Court.

21       **3. Review of Protected Material by Defendants.** The attorneys of record  
22 and members of each Defendant's defense team may share and review the Protected  
23 Material with their respective Defendant. Defendants who are residing at the Federal  
24 Detention Center (FDC) will be permitted to review the Protected Material, consistent  
25 with the regulations established by the BOP, with their respective counsel in a controlled  
26 environment at the Federal Detention Center (FDC), but will be prohibited from printing  
27 out, copying, or disseminating the discovery. Defendants who are on pretrial release will  
28

1 be permitted to review the Protected Material at the offices of their counsel, but will be  
2 prohibited from printing out, copying, or disseminating the discovery.

3       **4. Limits on Dissemination of Protected Materials.** The attorneys of record  
4 and members of the defense team acknowledge that providing copies of the Protected  
5 Material to the Defendants and other persons is prohibited, and agree not to duplicate or  
6 provide copies of the Protected Material to the Defendants and other persons. This order  
7 does not limit employees of the United States Attorney's Office for the Western District  
8 of Washington from disclosing the Protected Material to members of the United States  
9 Attorney's Office, federal law enforcement agencies, and to the Court and defense as  
10 necessary to comply with the government's discovery obligations.

11       **5. Future Production of Additional Protected Materials.** Additional types  
12 of discovery items may be deemed by the parties to constitute Protected Material upon  
13 agreement, or (if no agreement can be reached) by further order of the Court.

14       **6. No Waiver.** Nothing in this order should be construed as imposing any  
15 substantive discovery obligations on the government that are different from those  
16 imposed by case law and Rule 16 of the Federal Rules of Criminal Procedure. The  
17 failure to designate any materials as provided in paragraph 2 shall not constitute a waiver  
18 of a party's assertion that the materials are covered by this Protective Order.

19       **7. Use of Protected Material in Court.** Any Protected or Sensitive Material  
20 that is filed with the Court in connection with pre-trial motions, trial, or other matter  
21 before this Court, shall be filed under seal and shall remain sealed until otherwise ordered  
22 by this Court. This does not entitle either party to seal their filings as a matter of course.  
23 The parties are required to comply in all respects to the relevant local and federal rules of  
24 criminal procedure pertaining to the sealing of court documents.

25       **8. Non-Termination.** The provisions of this Order shall not terminate at the  
26 conclusion of this prosecution. Furthermore, at the close of this case, defense counsel  
27 shall return the Protected Material, including all copies of the Protected Material, to the  
28

1 office of the United States Attorney, or otherwise certify that the material has been  
2 destroyed.

3       **9. Violation of Order.** Any person who willfully violates this order may be  
4 held in contempt of court and may be subject to monetary or other sanctions as deemed  
5 appropriate by this Court.

6       **10. Modification of Order.** Nothing in this Stipulation shall prevent any party  
7 from seeking modification of this Protective Order or from objecting to discovery that it  
8 believes to be otherwise improper. The parties agree that in the event that compliance  
9 with this Order makes it difficult for defense counsel to adhere to their Sixth Amendment  
10 obligations, or otherwise imposes an unworkable burden on counsel, defense counsel  
11 shall bring any concerns about the terms of the Order to the attention of the government.  
12 The parties shall then meet and confer with the intention of finding a mutually acceptable  
13 solution. In the event that the parties cannot reach such a solution, defense counsel shall  
14 have the right to bring any concerns about the scope or terms of the Order to the attention  
15 of the Court by way of a motion.

16       **11. No Ruling on Discoverability or Admissibility.** This Protective Order  
17 does not constitute a ruling on the question of whether any particular material is properly  
18 discoverable or admissible and does not constitute any ruling on any potential objection  
19 to the discoverability of any material.

20       **12. Addition of Defendants after Entry of Order.** This Protective Order will  
21 cover additional Defendants in this case so long as they agree to be bound by the terms of  
22 this Protective Order and so indicate that consent by the execution of a supplemental  
23 stipulation, which shall be filed as an addendum or supplement to this Protective Order.

24       ///

25       ///

26       ///

27

28

PROTECTIVE ORDER - 4  
*U.S. v. Ruelas-Payan, et al.*, CR17-229JLR

UNITED STATES ATTORNEY  
700 STEWART STREET, SUITE  
5220  
SEATTLE, WASHINGTON 98101  
(206) 533-7970

1 The Clerk of the Court is directed to provide a filed copy of this Protective Order  
2 to all counsel of record.

3 DATED this 21<sup>st</sup> day of November, 2017.

  
\_\_\_\_\_  
THE HONORABLE JAMES L. ROBART  
UNITED STATES DISTRICT COURT JUDGE

8 | Presented by:

s/ Vincent T. Lombardi  
VINCENT T. LOMBARDI  
Assistant United States Attorney

**PROTECTIVE ORDER - 5**  
*U.S. v. Ruelas-Payan, et al.*, CR17-229JLR

UNITED STATES ATTORNEY  
700 STEWART STREET, SUITE  
5220  
SEATTLE, WASHINGTON 98101  
(206) 553-7970